

ENTERED

February 11, 2021

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION**

RUEL REYNALDO MENDOZA,

§

Plaintiff,

§
§
§

v.

Civil Case No. 6:20-CV-00042

**FNU ATWELL, FNU AGUILAR and
JC GONZALEZ,**

§
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§
§

Defendants.

§

ORDER ACCEPTING MEMORANDUM AND RECOMMENDATION

Pending before the Court is the Memorandum and Recommendation (“M&R”) signed by Magistrate Judge Julie K. Hampton on September 21, 2020. (Dkt. No. 27). In the M&R, Magistrate Judge Hampton resolved Plaintiff Ruel Reynaldo Mendoza’s (“Plaintiff”) Amended Complaint. (Dkt. No. 24). The Magistrate Judge screened Plaintiff’s Amended Complaint pursuant to the Prison Litigation Reform Act, 28 U.S.C. § 1915A and recommended that “(1) Plaintiff’s claims for money damages against Defendants in their official capacities be [dismissed] as barred by the Eleventh Amendment; and (2) Plaintiff’s claims against Defendants be [dismissed] with prejudice for failure to state a claim and/or as frivolous pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b)(1).” (Dkt. No. 27 at 1). Magistrate Judge Hampton also recommended that “the dismissal of this case counts as a ‘strike’ for purposes of 28 U.S.C. § 1915(g).” (*Id.*).

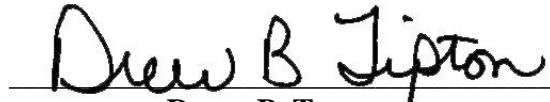
The Parties were provided proper notice and the opportunity to object to the proposed findings and recommendations. *See* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b); General Order No. 2002-13. No party has objected. As a result, review is straightforward. “When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the

record in order to accept the recommendation.” FED. R. CIV. P. 72(b) advisory committee’s note to 1983 addition; *see also Guillory v PPG Industries Inc*, 434 F.3d 303, 308 (5th Cir. 2005) (citation omitted).

The Court has reviewed the pleadings, the record, and the applicable law. No clear error appears. Accordingly, the M&R is **ACCEPTED** as this Court’s Memorandum and Order. Accordingly, Plaintiff’s claims for money damages against Defendants in their official capacities are **DISMISSED** as barred by the Eleventh Amendment and Plaintiff’s claims against Defendants are **DISMISSED** with prejudice for failure to state a claim and/or as frivolous pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b)(1). Furthermore, the dismissal of this case counts as a “strike” for purposes of 28 U.S.C. § 1915(g).

It is SO ORDERED.

SIGNED this February 10, 2021.


DREW B. TIPTON
UNITED STATES DISTRICT JUDGE